IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.5111 OF 2006
IN
FIRST APPEAL NO.2622 OF 2007

M/s.K.B.Shingote & Co. & Ors. ...Applicants

vs.

Bank of India ...Respondent

Mr.S.D.Rayrikar i/b Mr.Y.R.Mehta for the Applicants
Mr.M.S.Fadia for the Respondent.

CORAM: A.S.OKA,J.
DATE : NOVEMBER 21,2007.

P.C.:

1. Heard Advocates for the parties. The impugned decree is a money decree passed in favour of the Respondent-bank. Considering the nature of the decree, stay cannot be granted unless the entire decretal amount is deposited by the Appellant. However, if decretal amount is deposited, the Respondent will have to be permitted to withdraw the said amount subject to filing an undertaking before the trial court to redeposit the same with appropriate rate of interest in case the Applicants succeed in the Appeal.

2. Hence, the Application is disposed of by passing the following order :

i) There will be interim relief in terms of prayer clause (a) subject to the Applicants depositing entire decretal

amount with the trial court within twelve weeks from today. If the amount is not deposited, interim relief will stand vacated without further reference to the court.

ii) In case the amount is deposited, the Respondent will be entitled to withdraw the said amount subject to giving an undertaking to the trial court to redeposit the said amount with appropriate rate of interest in the event the Applicants succeed in the Appeal. No order as to costs.

JUDGE